

VERMONT LABOR RELATIONS BOARD

GRIEVANCE OF:)	
)	DOCKET NO. 82-45
VAL AUSTIN)	

ORDER DENYING GRIEVANT'S MOTION FOR
ENLARGEMENT OF TIME AND DISMISSING GRIEVANCE

On August 16, 1982, Val Austin ("Grievant"), through his attorney Douglas DeVries, filed a grievance with the Vermont Labor Relations Board, alleging he was dismissed from his position as a Correctional Officer in his original probationary period at the St. Albans Correctional Center in violation of 3 VSA §1001. Grievant filed an accompanying motion requesting that the time for filing a grievance under Section 23.1 of the Board's Rules of Practice be enlarged.

As a probationary employee, Grievant's right of appeal is limited to 3 VSA §1001(a) which provides:

Persons who are applicants for state employment in the classified service and classified employees in their initial probationary period and any extension or extensions thereof may appeal to the state employees labor relations board if they believe themselves discriminated against on account of their race, color, creed, sex, age or national origin.

Grievant was informed by St. Albans Superintendent Richard Bashaw by letter on June 10, 1982, that his employment was terminated, and that his only avenue of appeal was 3 VSA §1001.

Grievances filed with the Board shall be governed by the rules and regulations of the Board. 3 VSA §926, 928(b)(2). Section 23.1 of the Board's Rules of Practice provides:

Grievances of persons not covered by a collective bargaining agreement, when permitted by law, shall be heard only after exhaustion of any administrative

procedures that may be required by the State of Vermont or Vermont State Colleges and must be filed within thirty (30) days after receipt of notice of final decision of the employer.

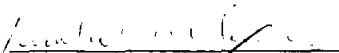
Grievant was notified of final decision of the employer on June 10, 1981, when he received the dismissal letter from Superintendent Bashaw. He did not file a grievance with the Board until August 16, 1982, 67 days later. Thus, his grievance was filed in an untimely manner in violation of Section 23.1. Grievance of Kevin Gadwah, Decision of Vermont Labor Relations Board, Docket 81-18, May 14, 1981. Affirmed by the Vermont Supreme Court, Docket No. 251-81, May 25, 1982. Since this grievance was filed after the appeal period established by the Board's Rules of Practice, we have no jurisdiction as we are without power to extend the appeal period. Allen v. Vermont Employment Security Board, 133 Vt. 166 (1975).

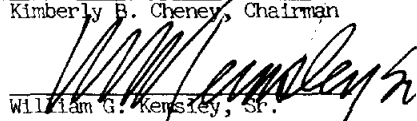
For the foregoing reasons, it is hereby ORDERED:

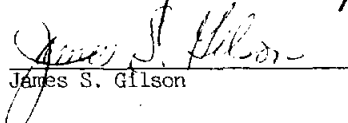
Grievant's Motion for Enlargement of Time is denied and the grievance is DISMISSED.

Dated this 7th day of October, 1982, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD


Kimberly B. Cheney, Chairman


William G. Kensley, Sr.


James S. Gilson